

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DONALD L. STRATTON,

Plaintiff,

v.

JULIE BUCK, et al.,

Defendants.

No. C09-5571 RJB/KLS

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

This matter comes before the Court on the Report and Recommendation of Magistrate Judge Karen L. Strombom. Dkt. 40. The Court has reviewed the Report and Recommendation, objections to the Report and Recommendation, and the remaining record.

Plaintiff files objections, arguing first that he did not receive all the discovery that he needed to oppose the motion and so seeks a continuance. Dkt. 43. Dr. Buck responds, and argues that Plaintiff does have all the information he needed to respond to the motion because it was either in his possession or was in materials provided him. Dkt. 47.

To the extent the Plaintiff makes a motion under Fed. R. Civ. P. 56(f) for a continuance, it should be denied. Pursuant to Fed. R. Civ. P. 56 (f), if a party opposing a summary judgment motion shows “by affidavit that for specified reasons it cannot present facts essential to justify its opposition” the court may order a continuance or “issue any other just order.” To prevail under this Rule, parties opposing a motion for summary judgment must make “(a) a timely application which (b) specifically identifies (c) relevant information, (d) where there is some basis for believing that the information sought actually exists.” *Blough v. Holland Realty inc.*, 574 F.3d

1 1084, 1091 (9th Cir. 2009)(*internal citations omitted*). Plaintiff has made no showing that “there
2 is some basis to believe that relevant information actually exists.” Plaintiff provides no basis
3 upon which to conclude that there is evidence that Dr. Buck, a private contractor in a public
4 hospital emergency room, who treated him after he was assaulted in prison, was a state actor.

5 Plaintiff’s additional objections are a reiteration of the same arguments he made in his
6 Response to the motion for summary judgment. They are addressed thoroughly in the Report
7 and Recommendation, and are without merit.
8

9 Accordingly the Court, does hereby find and **ORDER**:

- 10 1) The Court adopts the Report and Recommendation (Dkt. 40).
11 2) Defendant Dr. Julie Buck’s Motion for Summary Judgment (Dkt. 23) is
12 **GRANTED**. Plaintiff’s claims against Dr. Buck are **DISMISSED WITH**
13 **PREJUDICE**.
14 3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for
15 Defendant and to the Hon. Karen L. Strombom.

16 **DATED** this 8th day of July, 2010.

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19 ROBERT J. BRYAN
20 United States District Judge
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